

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Raisa Tkachenko,

Plaintiff,

-against-

ANSWER TO COMPLAINT

07 CV 11463 (GBD)

The City Of New York, Denise St. Rose, individually,
under color of state law, and in her official capacity as en
employee Consultant New York City Department of
Health, Day Care Program and **Jane or John Doe**,
individually, under color of state law, and in his or her
capacity as Supervisor of Denise St. Rose,

Defendants.

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Defendants City of New York and Denise St. Rose, by Michael A. Cardozo,
Corporation Counsel of the City of New York, for their Answer to the Complaint, respectfully
allege as follows:

1. Deny the allegations set forth in paragraph “1” of the complaint, except admit that plaintiff is proceeding as set forth therein.
2. Deny the allegations set forth in paragraph “2” of the complaint, except admit that plaintiff is proceeding as set forth therein.
3. Deny the allegations set forth in paragraph “3” of the complaint, except admit that plaintiff is proceeding as set forth therein.
4. Deny knowledge and information sufficient to form a belief as to the truth of the first sentence of allegations set forth in paragraph “4” of the complaint, and admit the remainder of said paragraph.
5. Deny the allegations set forth in paragraph “5” of the complaint, and respectfully refer the Court to Title 24 of the Rules of the City of New York § 47.01 *et seq.* for a

full statement of the duties and responsibilities of the New York City Department of Health and Mental Hygiene (“DOHMH”) with respect to the licensing of day care programs.

6. Admit the allegations set forth in the first sentence of paragraph “6” of the complaint, and deny the allegations set forth in the remainder of said paragraph.

7. Deny knowledge and information sufficient to form a belief as to the truth of the allegations of paragraph “7” of the complaint.

8. Admit the allegations set forth in paragraph “8” of the complaint, except aver that Fantasia Day Care Center cares for children ages 2 years to 6 years old.

9. Deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint, except admit that a report was filed with the New York State Central Registry and that plaintiff was the subject of an “indicated” report.

10. Deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the complaint.

11. Deny the allegations set forth in paragraph “11” of the complaint.

12. Deny the allegations set forth in paragraph “12” of the complaint except admit that St. Rose advised plaintiff’s employer that she could not work with children until such time as the record was expunged.

13. Deny the allegations set forth in paragraph “13” of the complaint, except admit that Fantasia suspended Tkachenko without pay on or about September 29, 2005.

14. Admit the allegations set forth in paragraph “14” of the complaint.

15. Deny the allegations set forth in paragraph “15” of the complaint, and respectfully refers the Court to the case cited therein for its full text and true meaning.

16. Deny the allegations set forth in paragraph “16” of the complaint.

17. Deny the allegations set forth in paragraph “17” of the complaint.

18. Deny the allegations set forth in paragraph “18” of the complaint.

19. In response to the allegations set forth in paragraph “19” of the complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “18” herein.

20. Deny the allegations set forth in paragraph “20” of the complaint.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny the allegations set forth in paragraph “22” of the complaint.

23. In response to the allegations set forth in paragraph “23” of the complaint, defendants repeat and reallege the responses set forth in paragraphs “1” through “22” herein.

24. Deny the allegations set forth in paragraph “24” of the complaint.

25. Deny the allegations set forth in paragraph “25” of the complaint.

26. Deny the allegations set forth in paragraphs “26” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

27. Defendants did not violate any of the rights and privileges afforded to plaintiff under the United States Constitution or any other laws or statutes.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

28. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

29. The claims asserted against Denise St. Rose are barred, in whole or in part, by reason of the qualified immunity to which she is entitled.

WHEREFORE, defendants request judgment:

A. Dismissing the complaint and denying all relief requested therein;

B. Granting defendants such other and further relief as the Court deems just and

proper.

Dated: New York, New York
February 6, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
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By: _____
AMY J. WEINBLATT (AW 0024)
Assistant Corporation Counsel

Case No. 07 CV 11463 (GBD)

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Defendants.

ANSWER TO COMPLAINT

MICHAEL A. CARDOZO

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*Of Counsel: Amy J. Weinblatt
Tel: (212) 788-0764
NYCLIS No.*

Due and timely service is hereby admitted.

New York, N.Y., 200

..... Esq.

Attorney for.....